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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,743	08/19/2003	Real Lemieux	701826-054340	4127
50828	7590	10/16/2006	EXAMINER	
DAVID S. RESNICK 100 SUMMER STREET NIXON PEABODY LLP BOSTON, MA 02110-2131			SCHWADRON, RONALD B	
			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,743

Applicant(s)

LEMIEUX ET AL.

Examiner

Ron Schwadron, Ph.D.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 11, 12 and 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9, 10, 13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. Applicant's election without traverse of Group I, claims 9,10,13 in the reply filed on 8/1/06 is acknowledged.

2. Claims 1-8,11,12,14-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions , there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/1/06.

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because Non-initialed and/or non-dated alterations have been made to the oath or declaration (non-initial changes were made to Inventor Lemieux's PO address (zip code)). See 37 CFR 1.52(c).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

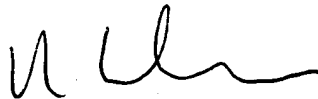
5. Claims 9,10,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bourel et al. (EP 1059088 A1).

Bourel et al. disclose purified autoantibodies isolated from IVIg, wherein said autoantibodies bind soluble human serum proteins such as IgG (see abstract, claims 1-3, [0001], [0014]). Bourel et al. disclose a composition of said antibodies and a pharmaceutically acceptable carrier (see claim 20). The functional properties of said antibodies recited in the claims are an inherent property of autoantibodies which bind soluble human serum proteins. Said antibodies are capable of forming autoimmune complexes because they are antibodies which bind soluble proteins present in human serum. Said autoantibodies have the property of claim 10 because they are the same as the autoantibodies disclosed in the specification (antibodies which bind soluble human serum proteins).

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6. No claim is allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ron Schwadron, Ph.D. whose telephone number is 571 272-0851. The examiner can normally be reached on Monday-Thursday 7:30-6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800 602

Ron Schwadron, Ph.D.
Primary Examiner
Art Unit 1644